



308204

**MEMORANDUM**

**DATE:** September 28, 1984

**SUBJECT:** Litigation Report; United States Smelting  
Lead Refinery, Inc., East Chicago, Indiana  
Unpermitted Discharges; Permit Violations

**FROM:** Robert B. Schaefer  
Regional Counsel

Charles E. Suttin  
Director, Water Division

**TO:** Valdas V. Adamkus  
Regional Administrator

Attached for your review and consideration is a Litigation Report recommending the filing of a civil action under the Clean Water Act. The projected Defendant is United States Smelting Lead Refinery, Inc. (U.S.S. Lead).

U.S.S. Lead was issued a permit 180032425 by the Indiana State Board of Health on June 15, 1975. This permit expired March 31, 1980 and a renewal application wasn't submitted until September 27, 1982. Notwithstanding the fact that the company failed to obtain a valid permit, U.S.S. Lead continues to discharge pollutants from the facility.

**Conclusion**

We have concluded that bringing a civil action against U.S.S. Lead is the best way to obtain compliance with the statutory requirements of the Clean Water Act.

**Recommendations**

We recommend that this litigation report be sent to Headquarters for ultimate referral to the Department of Justice. Eric Dunham (5-6721) of the Office of Regional Counsel and Ronald Kovach of the Water Division are the regional legal and technical contacts, respectively.

Attachment

Reference #40



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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
230 SOUTH DEARBORN ST.  
CHICAGO, ILLINOIS 60604

REPLY TO ATTENTION OF:

MEMORANDUM

DATE: OCT 1

SUBJECT: Litigation Report, United States Smelting  
Lead Refinery, Inc., East Chicago, Indiana  
Unpermitted Discharges; Permit Violations

FROM: Valdas V. Adamkus  
Regional Administrator

TO: Courtney M. Price  
Assistant Administrator for Enforcement  
and Compliance Monitoring (LE-133)

Jack Ravan  
Assistant Administrator for Water (WH-556)

Attached for your review and consideration is a Litigation Report recommending the filing of a civil action under the Clean Water Act, as amended (CWA). The projected defendant is United States Smelting Lead Refinery, Inc., a small secondary lead refinery/smelter in East Chicago, Indiana. This report documents the lengthy history of toxic and other pollutants which have been discharged in violation of its National Pollutant Discharge Elimination System (NPDES) permit.

Brief Synopsis of the Case

United States Smelting Lead Refinery, Inc. (U.S.S. Lead) is a secondary lead refinery/smelter located in East Chicago, Indiana. The facility discharges a combination of non-contact process cooling water boiler blowdown and storm water into the Grand Calumet River, tributary to Lake Michigan. The facility's permit IN0032425, issued June 15, 1975, expired March 31, 1980. The facility has continued to discharge pollutants since its permit expiration in violation of Section 301(a) of the CWA. The facility did not seek permit renewal until September 27, 1982.

In response to a reported duck kill, two plant inspections were conducted at the facility. Analytical results of the samples taken during both inspections show that the facility exceeded its permit levels for lead. Additionally, Discharge Monitoring Reports indicate that the permit levels for lead have been exceeded from September, 1982 through June, 1984, inclusive.

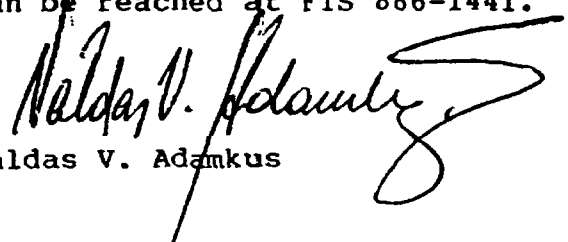
Due to the potential environmental threat presented by the unpermitted discharges, it would be desirable to obtain a judicially enforceable consent decree or order to compel U.S.S. Lead to take the necessary measures to come into compliance with the statutory permit requirements. It is also necessary to obtain civil penalties, in light of the lengthy history of noncompliance, and the potential environmental threat presented by the pollutants discharged. An Administrative Order would be inappropriate, due to the need to obtain penalties.

#### Conclusions and Recommendations

I have concluded that referral of this matter is necessary to abate this threat to the environment. I recommend that this matter be referred to the Department of Justice in an expeditious manner. My staff will provide any support necessary to bring this action to an environmentally beneficial conclusion.

#### Regional Contacts

Eric P. Dunham of the Office of Regional Counsel and Ronald D. Kovach of the Water Division are the Regional legal and technical contacts, respectively. Mr. Dunham can be reached at FTS 886-6721, and Mr. Kovach can be reached at FTS 886-1441.

  
Valdas V. Adamkus

#### Attachment

cc: Carol Green, Assistant Chief  
Environmental Enforcement Section  
Dept. of Justice

R. Laurence Steele  
U.S. Attorney for the  
Northern District of Indiana